

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1291

Introduced by Assembly Member Niello

February 27, 2009

An act to amend Sections 1513, 1513.5, ~~1514~~, 1516, 1520, 1532, ~~1540~~, 1560, 1565, and 1577 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1291, as amended, Niello. Unclaimed property.

Existing law, the Unclaimed Property Law, governs the disposition of unclaimed property, including the escheat of certain property to the state. Those provisions require a person holding funds or other property escheated to the state to report to the Controller certain information regarding the property and the owner.

Existing law provides for the escheat to the state of (1) certain deposits or accounts made with a banking organization, together with other specified sums, (2) certain deposits, accounts, investment certificates, or other interests in or deposits made with a financial organization, together with other specified sums, and (3) certain funds held by a business association in specified retirement accounts or plans, when the owner, for more than 3 years, has not taken any of certain actions, except as specified.

This bill would modify the actions that, if not taken by the owner for more than 3 years, lead to the escheat of the property described above by adding to those actions the receipt of tax reports or regular statements

by mail from the banking organization, financial organization, or business association regarding the funds, deposit, account, or plan. The bill would provide that receipt of a report or statement by the owner shall be presumed if the organization or association sent the report or statement to the owner by first-class mail and the report or statement was not returned.

Existing law requires certain entities to make reasonable efforts to notify owners of certain property, by mail, that the property will escheat to the state under specified provisions of law.

This bill would allow those entities to notify an owner described above electronically when the owner has consented to electronic notifications.

Existing law requires the holder of certain property, including certain property held by a banking or financial organization, certain sums held or owing by a business association to shareholders or other specified persons, and tangible property that is held in the ordinary course of the holder's business, to notify the owner, at prescribed times, of information regarding escheat.

This bill would require that those notices contain certain information and would allow the holder to give additional notices, as specified. The bill would require that, at the time a new account is opened with a banking or financial organization, the organization provide a written notice to the person opening the account regarding escheat.

~~Existing law provides that the contents of any safe deposit box or any other safekeeping repository held in this state by a business association escheat to the state if unclaimed by the owner for more than three years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of another specified agreement, whichever last occurs.~~

~~This bill would provide, instead, that the contents of a safe deposit box or other safekeeping repository, or the proceeds of sale of those contents, escheat to the state if unclaimed for more than 5 years from the later of the 2 dates described above. The bill would require the business association to notify the owner of the contents of a safe deposit box twice, at specified times, regarding escheat, and would specify the contents of the notice. The bill would also require a business association to provide a notice regarding escheat to a person opening a safe deposit box. The bill would provide for a form by which the customer may declare an intention to maintain the safe deposit box or other safekeeping repository and would authorize the business association to impose a~~

~~service charge for this notice. The bill would provide that the contents of a safe deposit box shall not escheat to the state under certain circumstances.~~

Existing law requires every person holding funds or other property escheated to the state to report to the Controller, as specified. Existing law *requires* every person filing such a report to pay or deliver to the Controller all escheated property specified in the report within a certain period.

This bill would allow the Controller to postpone the date for payment or delivery of the property, and the date for any report required by the above provisions, upon his or her own motion or upon written request by any person required to pay or deliver the property or file a report.

~~Existing law allows any person, excluding another state, who claims an interest in property paid or delivered to the Controller under the above provisions of law to file a claim to the property or to the net proceeds from its sale. Existing law requires the Controller to consider each claim within 180 days after it is filed.~~

~~This bill would require the Controller to add interest, at a prescribed rate, to the amount of any claim paid to the owner under these provisions for the period the property was on deposit in the Unclaimed Property Fund, except as specified. It would require a holder who pays to the owner property that has escheated to the state and that, if claimed from the Controller, would be subject to the provisions regarding the payment of interest to add interest in accordance with those provisions, and would require the Controller to repay that interest to the holder.~~

Existing law provides that a person who pays or delivers escheated property to the Controller under the above provisions is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

This bill would provide, instead, that a person who pays or delivers escheated property to the Controller under the above provisions and who, prior to escheat, if the person's records contain an address for the apparent owner, has made reasonable efforts to notify the owner by mail or electronically that the customer's property, deposit, account, shares, or other interest will escheat to the state, is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

Existing law requires that any property delivered to the Controller pursuant to the above provisions that has no apparent commercial value

be retained by the Controller for not less than 18 months from the date the property is delivered to the Controller.

This bill would require, instead, that the Controller retain that property for not less than 7 years.

Existing law requires that any person who fails to report, pay, or deliver unclaimed property within the time prescribed by these provisions, unless that failure is due to reasonable cause, pay to the Controller interest at the rate of 12% per annum on that property or value thereof from the date the property should have been reported, paid, or delivered

This bill would require, in addition, that any person who fails to file a report in the time and manner required by specified provisions of law, unless that failure is due to reasonable cause, pay to the Controller interest as described above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1513 of the Code of Civil Procedure is
- 2 amended to read:
- 3 1513. (a) Subject to Sections 1510 and 1511, the following
- 4 property held or owing by a business association escheats to this
- 5 state:
- 6 (1) (A) Except as provided in paragraph (6), any demand,
- 7 savings, or matured time deposit, or account subject to a negotiable
- 8 order of withdrawal, made with a banking organization, together
- 9 with any interest or dividends thereon, excluding, from demand
- 10 deposits and accounts subject to a negotiable order of withdrawal
- 11 only, any reasonable service charges that may lawfully be withheld
- 12 and that do not (where made in this state) exceed those set forth
- 13 in schedules filed by the banking organization from time to time
- 14 with the Controller, when the owner, for more than three years,
- 15 has not done any of the following:
- 16 (i) Increased or decreased the amount of the deposit, cashed an
- 17 interest check, or presented the passbook or other similar evidence
- 18 of the deposit for the crediting of interest.
- 19 (ii) Corresponded electronically or in writing with the banking
- 20 organization concerning the deposit.

1 (iii) Otherwise indicated an interest in the deposit as evidenced
2 by a memorandum or other record on file with the banking
3 organization.

4 (iv) Received tax reports or regular statements by mail from the
5 banking organization regarding the funds or deposit. Receipt of a
6 report or statement by the owner shall be presumed if the banking
7 organization sent the report or statement to the owner by first-class
8 mail and the report or statement was not returned.

9 (B) A deposit or account shall not, however, escheat to the state
10 if, during the previous three years, the owner has owned another
11 deposit or account with the banking organization and, with respect
12 to that deposit or account, the owner has done any of the acts
13 described in clause (i), (ii), (iii), or (iv) of subparagraph (A), and
14 the banking organization has communicated electronically or in
15 writing with the owner, at the address to which communications
16 regarding that deposit or account are regularly sent, with regard
17 to the deposit or account that would otherwise escheat under this
18 subdivision. For purposes of this subdivision, "communications"
19 means account statements or statements of interest paid for federal
20 and state income tax purposes.

21 (C) No banking organization may discontinue any interest or
22 dividends on any savings deposit because of the inactivity
23 contemplated by this section.

24 (2) (A) Except as provided in paragraph (6), any demand,
25 savings, or matured time deposit, or matured investment certificate,
26 or account subject to a negotiable order of withdrawal, or other
27 interest in a financial organization or any deposit made therewith,
28 and any interest or dividends thereon, excluding, from demand
29 deposits and accounts subject to a negotiable order of withdrawal
30 only, any reasonable service charges that may lawfully be withheld
31 and that do not (where made in this state) exceed those set forth
32 in schedules filed by the financial organization from time to time
33 with the Controller, when the owner, for more than three years,
34 has not done any of the following:

35 (i) Increased or decreased the amount of the funds or deposit,
36 cashed an interest check, or presented an appropriate record for
37 the crediting of interest or dividends.

38 (ii) Corresponded electronically or in writing with the financial
39 organization concerning the funds or deposit.

1 (iii) Otherwise indicated an interest in the funds or deposit as
2 evidenced by a memorandum or other record on file with the
3 financial organization.

4 (iv) Received tax reports or regular statements by mail from the
5 financial organization regarding the funds or deposit. Receipt of
6 a report or statement by the owner shall be presumed if the financial
7 organization sent the report or statement to the owner by first-class
8 mail and the report or statement was not returned.

9 (B) A deposit or account shall not, however, escheat to the state
10 if, during the previous three years, the owner has owned another
11 deposit or account with the financial organization and, with respect
12 to that deposit or account, the owner has done any of the acts
13 described in clause (i), (ii), (iii), or (iv) of subparagraph (A), and
14 the financial organization has communicated electronically or in
15 writing with the owner, at the address to which communications
16 regarding that deposit or account are regularly sent, with regard
17 to the deposit or account that would otherwise escheat under this
18 subdivision. For purposes of this subdivision, “communications”
19 means account statements or statements of interest paid for federal
20 and state income tax purposes.

21 (C) No financial organization may discontinue any interest or
22 dividends on any funds paid toward purchase of shares or other
23 interest, or on any deposit, because of the inactivity contemplated
24 by this section.

25 (3) Any sum payable on a traveler’s check issued by a business
26 association that has been outstanding for more than 15 years from
27 the date of its issuance, when the owner, for more than 15 years,
28 has not corresponded in writing with the business association
29 concerning it, or otherwise indicated an interest as evidenced by
30 a memorandum or other record on file with the association.

31 (4) Any sum payable on any other written instrument on which
32 a banking or financial organization is directly liable, including, by
33 way of illustration but not of limitation, any draft or certified check,
34 that has been outstanding for more than three years from the date
35 it was payable, or from the date of its issuance if payable on
36 demand, when the owner, for more than three years, has not
37 corresponded electronically or in writing with the banking or
38 financial organization concerning it, or otherwise indicated an
39 interest as evidenced by a memorandum or other record on file
40 with the banking or financial organization.

(5) Any sum payable on a money order issued by a business association (including a banking or financial organization), that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, excluding any reasonable service charges that may lawfully be withheld and that do not, when made in this state, exceed those set forth in schedules filed by the business association from time to time with the Controller, when the owner, for more than seven years, has not corresponded electronically or in writing with the business association, banking, or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the business association.

For the purposes of this subdivision, “reasonable service charge” means a service charge that meets all of the following requirements:

(A) It is uniformly applied to all of the issuer’s money orders.

(B) It is clearly disclosed to the purchaser at the time of purchase and to the recipient of the money order.

(C) It does not begin to accrue until three years after the purchase date, and it stops accruing after the value of the money order escheats.

(D) It is permitted by contract between the issuer and the purchaser.

(E) It does not exceed 25 cents (\$0.25) per month or the aggregate amount of twenty-one dollars (\$21).

(6) (A) Any funds held by a business association in an individual retirement account or under a retirement plan for self-employed individuals or similar account or plan established pursuant to the internal revenue laws of the United States or of this state, when the owner, for more than three years after the funds become payable or distributable, has not done any of the following:

(i) Increased or decreased the principal.

(ii) Accepted payment of principal or income.

(iii) Corresponded electronically or in writing concerning the property or otherwise indicated an interest.

(iv) Received tax reports or regular statements by mail from the business association regarding the account or plan. Receipt of a report or statement by the owner shall be presumed if the business association sent the report or statement to the owner by first-class mail and the report or statement was not returned.

(B) These funds are not payable or distributable within the meaning of this subdivision unless, under the terms of the account or plan, distribution of all or a part of the funds would then be mandatory.

(7) Any wages or salaries that have remained unclaimed by the owner for more than one year after the wages or salaries become payable.

(b) For purposes of this section “service charges” means service charges imposed because of the inactivity contemplated by this section.

SEC. 2. Section 1513.5 of the Code of Civil Procedure is amended to read:

1513.5. (a) Except as provided in subdivision (c), if the holder has in its records an address for the apparent owner, which the holder’s records do not disclose to be inaccurate, every banking or financial organization shall make reasonable efforts to notify any customer by mail or, if the customer has consented to electronic notifications, electronically, that the customer’s deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to paragraph (1) or (2) of subdivision (a) of Section 1513. The holder shall give notice either:

(1) Not less than two years nor more than two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the financial organization.

(2) Not less than six nor more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. The face of the notice shall contain a heading centered at the top that reads as follows: “THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US,” or substantially similar language. The notice required by this section shall, in bold or in a font a minimum of two points larger than the rest of the notice, (1) specify that since the date of last activity, or for the last two years, there has been

1 no customer activity on the deposit, account, shares, or other
2 interest; (2) identify the deposit, account, shares, or other interest
3 by number or identifier; (3) indicate that the deposit, account,
4 shares, or other interest is in danger of escheating to the state; and
5 (4) specify that the California Unclaimed Property Law requires
6 banks, banking organizations, and financial organizations to
7 transfer funds of a deposit, account, shares, or other interest if it
8 has been inactive for three years. It shall also include a form, as
9 prescribed by the Controller, by which the customer may declare
10 an intention to maintain the deposit, account, shares, or other
11 interest. If that form is filled out, signed by the customer, and
12 returned to the banking or financial organization, it shall satisfy
13 the requirement of clause (iii) of subparagraph (A) of paragraph
14 (1), or clause (iii) of subparagraph (A) of paragraph (2), of
15 subdivision (a) of Section 1513. The banking or financial
16 organization may impose a service charge on the deposit, account,
17 shares, or other interest for this notice in an amount not to exceed
18 the administrative cost of mailing the notice and form and in no
19 case to exceed two dollars (\$2).

20 (c) Notice as provided by subdivisions (a) and (b) shall not be
21 required for deposits, accounts, shares, or other interests of less
22 than fifty dollars (\$50), and no service charge may be made for
23 notice on these items.

24 (d) In addition to the notices required pursuant to subdivision
25 (a), the holder may give additional notice as described in
26 subdivision (b) at any time between the date of last activity by, or
27 communication with, the owner and the date the holder transfers
28 the deposit, account, shares, or other interest to the Controller.

29 (e) At the time a new account is opened with a banking or
30 financial organization, the organization shall provide a written
31 notice to the person opening the account informing the person that
32 his or her property may be transferred to the applicable state if no
33 activity occurs in the account within the time period specified by
34 state law.

35 ~~SEC. 3. Section 1514 of the Code of Civil Procedure is~~
36 ~~amended to read:~~

37 ~~1514. (a) The contents of, or the proceeds of sale of the~~
38 ~~contents of, any safe deposit box or any other safekeeping~~
39 ~~repository, held in this state by a business association, escheat to~~
40 ~~this state if unclaimed by the owner for more than five years from~~

1 the date on which the lease or rental period on the box or other
2 repository expired, or from the date of termination of any
3 agreement because of which the box or other repository was
4 furnished to the owner without cost, whichever last occurs.

5 (b) If a business association has in its records an address for an
6 apparent owner of the contents of, or the proceeds of sale of the
7 contents of, a safe deposit box or other safekeeping repository
8 described in subdivision (a), and the business association's records
9 do not disclose the address to be inaccurate, the business
10 association shall make reasonable efforts to notify the owner by
11 mail, or, when the owner has consented to electronic notifications,
12 electronically, that the owner's contents will escheat to the state
13 pursuant to this section. The business association shall give notice
14 at each of the following two times before the date the contents
15 become reportable to the Controller in accordance with this chapter:

16 (1) Not less than two and one-half years and not more than three
17 years before that date.

18 (2) Not less than six and not more than 12 months before that
19 date.

20 (c) (1) The notice required by subdivision (b) shall, in bold or
21 in a font a minimum of two points larger than the rest of the notice,
22 exclusive of the heading, do all of the following:

23 (A) Specify that since the date of last activity or for the last two
24 years or four years, as appropriate, there has been no customer
25 activity on the safe deposit box or other safekeeping repository.

26 (B) Identify the safe deposit box or other safekeeping repository
27 by number or identifier.

28 (C) Indicate that the contents of the safe deposit box or other
29 safekeeping repository are in danger of escheating to the state.

30 (D) Specify that the California Unclaimed Property Law requires
31 business associations to transfer the contents of a safe deposit box
32 or other safekeeping repository to the Controller if it has been
33 inactive for five years.

34 (2) The face of the notice required by subdivision (b) shall
35 contain a heading centered at the top that reads as follows:

36 "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY
37 YOU THAT YOUR UNCLAIMED PROPERTY MAY BE
38 TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT
39 US," or substantially similar language.

1 ~~(3) The notice shall also include a form, as prescribed by the~~
2 ~~Controller, by which the customer may declare an intention to~~
3 ~~maintain the safe deposit box or other safekeeping repository by~~
4 ~~either renewing the lease, rental period, or agreement, or otherwise~~
5 ~~taking possession of the property from the banking or financial~~
6 ~~organization. If that form is filled out, signed by the customer, and~~
7 ~~returned to the business association, it shall be considered as a~~
8 ~~claim for the safe deposit box or other safekeeping repository and~~
9 ~~the contents shall not escheat. The business association may impose~~
10 ~~a service charge on the safe deposit box or other safekeeping~~
11 ~~repository for this notice in an amount not to exceed the~~
12 ~~administrative cost of mailing the notice and form, and in no case~~
13 ~~to exceed two dollars (\$2).~~

14 ~~(d) In addition to the notices required pursuant to subdivision~~
15 ~~(b), the business association may give additional notice in~~
16 ~~accordance with subdivision (c) at any time between the date of~~
17 ~~the last activity by, or communication with, the owner and the date~~
18 ~~the business association transfers the contents of the safe deposit~~
19 ~~box or other safekeeping repository to the Controller.~~

20 ~~(e) A safe deposit box or other safekeeping repository shall not,~~
21 ~~however, escheat to the state if, during the previous five years, the~~
22 ~~owner has owned any demand, savings, or matured time deposit,~~
23 ~~or account subject to a negotiable order of withdrawal, made with~~
24 ~~a banking organization or financial organization and, with respect~~
25 ~~to that deposit or account, the owner has done any of the acts~~
26 ~~described in clause (i), (ii), (iii), or (iv) of subparagraph (A) of~~
27 ~~paragraph (1) of subdivision (a) of Section 1513 and the financial~~
28 ~~organization has communicated electronically or in writing with~~
29 ~~the owner, at the address to which communications regarding that~~
30 ~~deposit or account are regularly sent, with regard to the deposit or~~
31 ~~account that would otherwise escheat under that section. For~~
32 ~~purposes of this subdivision, "communications" means account~~
33 ~~statements of interest paid for federal and state income tax~~
34 ~~purposes. Notwithstanding the foregoing, in the event the customer~~
35 ~~is in default under the safe deposit box or other safekeeping~~
36 ~~repository agreement, the banking organization or financial~~
37 ~~organization may pay or deliver the contents of, or the proceeds~~
38 ~~of sale of the contents of, the safe deposit box or other safekeeping~~
39 ~~repository to the customer after deducting any amount due and~~
40 ~~payable from those proceeds under that agreement. Upon making~~

1 that payment or delivery under this subdivision, the banking
2 organization or financial organization shall be relieved of all
3 liability to the extent of the value of those contents or proceeds.

4 (f) ~~At the time a new account for a safe deposit box or other~~
5 ~~safekeeping repository is opened with a business association, the~~
6 ~~association shall provide a written notice to the person opening~~
7 ~~the account informing the person that his or her property may be~~
8 ~~transferred to the applicable state if no activity occurs in the~~
9 ~~account within the time period specified by state law.~~

10 (g) ~~A banking organization may directly escheat the contents~~
11 ~~of a safe deposit box or other safekeeping repository without~~
12 ~~exercising its rights under Article 2 (commencing with Section~~
13 ~~1660) of Chapter 13 of Division 1 of the Financial Code~~

14 ~~SEC. 4.~~

15 *SEC. 3.* Section 1516 of the Code of Civil Procedure is
16 amended to read:

17 1516. (a) Subject to Section 1510, any dividend, profit,
18 distribution, interest, payment on principal, or other sum held or
19 owing by a business association for or to its shareholder, certificate
20 holder, member, bondholder, or other security holder, or a
21 participating patron of a cooperative, who has not claimed it, or
22 corresponded in writing with the business association concerning
23 it, within three years after the date prescribed for payment or
24 delivery, escheats to this state.

25 (b) Subject to Section 1510, any intangible interest in a business
26 association, as evidenced by the stock records or membership
27 records of the association, escheats to this state if (1) the interest
28 in the association is owned by a person who for more than three
29 years has neither claimed a dividend or other sum referred to in
30 subdivision (a) nor corresponded in writing with the association
31 or otherwise indicated an interest as evidenced by a memorandum
32 or other record on file with the association, and (2) the association
33 does not know the location of the owner at the end of the three-year
34 period. With respect to the interest, the business association shall
35 be deemed the holder.

36 (c) Subject to Section 1510, any dividends or other distributions
37 held for or owing to a person at the time the stock or other security
38 to which they attach escheats to this state also escheat to this state
39 as of the same time.

(d) With respect to any interest that may escheat pursuant to subdivision (b), the business association shall make reasonable efforts to notify the owner by mail or, if the customer has consented to electronic notifications, electronically, that the owner's interest in the business association will escheat to the state. The notice shall be given not less than 6 nor more than 12 months before the time the interest in the business association becomes reportable to the Controller in accordance with this chapter. The face of the notice shall contain a heading centered at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language. The notice required by this subdivision shall specify the time that the interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the interest. The notice required by this section shall, in bold or in a font a minimum of two points larger than the rest of the notice, (1) specify that since the date of last activity, or for the last two years, there has been no customer activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may confirm the owner's current address. If that form is filled out, signed by the owner, and returned to the holder, it shall be deemed that the business association knows the location of the owner.

(e) In addition to the notice required pursuant to subdivision (d), the holder may give additional notice as described in subdivision (d) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the deposit, shares, or other interest to the Controller.

~~SEC. 5.~~

SEC. 4. Section 1520 of the Code of Civil Procedure is amended to read:

1 1520. (a) All tangible personal property located in this state
2 and, subject to Section 1510, all intangible personal property,
3 except property of the classes mentioned in Sections 1511, 1513,
4 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
5 any income or increment thereon and deducting any lawful charges,
6 that is held or owing in the ordinary course of the holder's business
7 and has remained unclaimed by the owner for more than three
8 years after it became payable or distributable escheats to this state.

9 (b) Except as provided in subdivision (a) of Section 1513.5,
10 subdivision (b) of Section 1514, and subdivision (d) of Section
11 1516, if the holder has in its records an address for the apparent
12 owner of property valued at fifty dollars (\$50) or more, which the
13 holder's records do not disclose to be inaccurate, the holder shall
14 make reasonable efforts to notify the owner by mail or, if the
15 customer has consented to electronic notifications, electronically,
16 that the owner's property will escheat to the state pursuant to this
17 chapter. The notice shall be mailed not less than six nor more than
18 12 months before the time when the owner's property held by the
19 business becomes reportable to the Controller in accordance with
20 this chapter. The face of the notice shall contain a heading centered
21 at the top that reads as follows: "THE STATE OF CALIFORNIA
22 REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED
23 PROPERTY MAY BE TRANSFERRED TO THE STATE IF
24 YOU DO NOT CONTACT US," or substantially similar language.
25 The notice required by this subdivision shall specify the time when
26 the property will escheat and the effects of escheat, including the
27 need to file a claim in order for the owner's property to be returned
28 to the owner. The notice required by this section shall, in bold or
29 in a font a minimum of two points larger than the rest of the notice,
30 (1) specify that since the date of last activity, or for the last two
31 years, there has been no customer activity on the deposit, account,
32 shares, or other interest; (2) identify the deposit, account, shares,
33 or other interest by number or identifier; (3) indicate that the
34 deposit, account, shares, or other interest is in danger of escheating
35 to the state; and (4) specify that the California Unclaimed Property
36 Law requires banks, banking organizations, and financial
37 organizations to transfer funds of a deposit, account, shares, or
38 other interest if it has been inactive for three years. It shall also
39 include a form, as prescribed by the Controller, by which the owner
40 may confirm the owner's current address. If that form is filled out,

1 signed by the owner, and returned to the holder, it shall be deemed
2 that the account, or other device in which the owner's property is
3 being held, remains currently active and recommences the escheat
4 period.

5 (c) In addition to the notice required pursuant to subdivision
6 (b), the holder may give additional notice as described in
7 subdivision (b) at any time between the date of last activity by, or
8 communication with, the owner and the date the holder transfers
9 the property to the Controller.

10 (d) For purposes of this section, "lawful charges" means charges
11 which are specifically authorized by statute, other than the
12 Unclaimed Property Law, or by a valid, enforceable contract.

13 ~~SEC. 6.~~

14 *SEC. 5.* Section 1532 of the Code of Civil Procedure is
15 amended to read:

16 1532. (a) Every person filing a report as provided by Section
17 1530 shall, no sooner than seven months and no later than seven
18 months and 15 days after the final date for filing the report, pay
19 or deliver to the Controller all escheated property specified in the
20 report. Any payment of unclaimed cash in an amount of at least
21 twenty thousand dollars (\$20,000) shall be made by electronic
22 funds transfer pursuant to regulations adopted by the Controller.
23 The Controller may postpone the date for payment or delivery of
24 the property, and the date for any report required by subdivision
25 (b), upon his or her own motion or upon written request by any
26 person required to pay or deliver the property or file a report as
27 required by this section.

28 (b) If a person establishes his or her right to receive any property
29 specified in the report to the satisfaction of the holder before that
30 property has been delivered to the Controller, or it appears that,
31 for any other reason, the property may not be subject to escheat
32 under this chapter, the holder shall not pay or deliver the property
33 to the Controller but shall instead file a report with the Controller,
34 on a form and in a format prescribed or approved by the Controller,
35 containing information pertaining to the property not subject to
36 escheat.

37 (c) Any property not paid or delivered pursuant to subdivision
38 (b) that is later determined by the holder to be subject to escheat
39 under this chapter shall not be subject to the interest provision of
40 Section 1577.

(d) The holder of any interest under subdivision (b) of Section 1516 shall deliver a duplicate certificate to the Controller or shall register the securities in uncertificated form in the name of the Controller. Upon delivering a duplicate certificate or providing evidence of registration of the securities in uncertificated form to the Controller, the holder, any transfer agent, registrar, or other person acting for or on behalf of the holder in executing or delivering the duplicate certificate or registering the uncertificated securities, shall be relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate or the duplicate of the certificate issued to the Controller for any losses or damages resulting to that person by the issuance and delivery to the Controller of the duplicate certificate or the registration of the uncertificated securities to the Controller.

(e) Payment of any intangible property to the Controller shall be made at the office of the Controller in Sacramento or at another location as the Controller by regulation may designate. Except as otherwise agreed by the Controller and the holder, tangible personal property shall be delivered to the Controller at the place where it is held.

(f) Payment is deemed complete on the date the electronic funds transfer is initiated if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(g) Any person required to pay cash by electronic funds transfer who makes the payment by means other than an authorized electronic funds transfer shall be liable for a civil penalty of 2 percent of the amount of the payment that is due pursuant to this section, in addition to any other penalty provided by law. Penalties are due at the time of payment. If the Controller finds that a holder's failure to make payment by an appropriate electronic funds transfer in accordance with the Controller's procedures is due to reasonable cause and circumstances beyond the holder's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that holder shall be relieved of the penalties.

1 (h) An electronic funds transfer shall be accomplished by an
2 automated clearinghouse debit, an automated clearinghouse credit,
3 a Federal Reserve Wire Transfer (Fedwire), or by an international
4 funds transfer. Banking costs incurred for the automated
5 clearinghouse debit transaction by the holder shall be paid by the
6 state. Banking costs incurred by the state for the automated
7 clearinghouse credit transaction may be paid by the holder
8 originating the credit. Banking costs incurred for the Fedwire
9 transaction charged to the holder and the state shall be paid by the
10 person originating the transaction. Banking costs charged to the
11 holder and to the state for an international funds transfer may be
12 charged to the holder.

13 (i) For purposes of this section:

14 (1) "Electronic funds transfer" means any transfer of funds,
15 other than a transaction originated by check, draft, or similar paper
16 instrument, that is initiated through an electronic terminal,
17 telephonic instrument, modem, computer, or magnetic tape, so as
18 to order, instruct, or authorize a financial institution to credit or
19 debit an account.

20 (2) "Automated clearinghouse" means any federal reserve bank,
21 or an organization established by agreement with the National
22 Automated Clearing House Association, that operates as a
23 clearinghouse for transmitting or receiving entries between banks
24 or bank accounts and that authorizes an electronic transfer of funds
25 between those banks or bank accounts.

26 (3) "Automated clearinghouse debit" means a transaction in
27 which the state, through its designated depository bank, originates
28 an automated clearinghouse transaction debiting the holder's bank
29 account and crediting the state's bank account for the amount of
30 payment.

31 (4) "Automated clearinghouse credit" means an automated
32 clearinghouse transaction in which the holder, through its own
33 bank, originates an entry crediting the state's bank account and
34 debiting the holder's bank account.

35 (5) "Fedwire" means any transaction originated by the holder
36 and utilizing the national electronic payment system to transfer
37 funds through federal reserve banks, pursuant to which the holder
38 debits its own bank account and credits the state's bank account.

39 (6) "International funds transfer" means any transaction
40 originated by the holder and utilizing the international electronic

1 payment system to transfer funds, pursuant to which the holder
2 debits its own bank account, and credits the funds to a United
3 States bank that credits the Unclaimed Property Fund.

4 ~~SEC. 7. Section 1540 of the Code of Civil Procedure is~~
5 ~~amended to read:~~

6 ~~1540. (a) Any person, excluding another state, who claims an~~
7 ~~interest in property paid or delivered to the Controller under this~~
8 ~~chapter may file a claim to the property or to the net proceeds from~~
9 ~~its sale. The claim shall be on a form prescribed by the Controller~~
10 ~~and shall be verified by the claimant.~~

11 ~~(b) The Controller shall consider each claim within 180 days~~
12 ~~after it is filed and may hold a hearing and receive evidence. The~~
13 ~~Controller shall give written notice to the claimant if he or she~~
14 ~~denies the claim in whole or in part. The notice may be given by~~
15 ~~mailing it to the address, if any, stated in the claim as the address~~
16 ~~to which notices are to be sent. If no address is stated in the claim,~~
17 ~~the notice may be mailed to the address, if any, of the claimant as~~
18 ~~stated in the claim. No notice of denial need be given if the claim~~
19 ~~fails to state either an address to which notices are to be sent or an~~
20 ~~address of the claimant.~~

21 ~~(c) (1) The Controller shall add interest at the rate of 5 percent~~
22 ~~per year or the bond equivalent rate of 13-week United States~~
23 ~~Treasury bills, whichever is lower, to the amount of any claim paid~~
24 ~~to the owner under this section for the period the property was on~~
25 ~~deposit in the Unclaimed Property Fund. No interest shall be~~
26 ~~payable for any period prior to January 1, 1977. Any interest~~
27 ~~required to be paid by the state pursuant to this section shall be~~
28 ~~computed as simple interest, not as compound interest.~~

29 ~~(2) For purposes of this section, the bond equivalent rate of~~
30 ~~13-week United States Treasury bills shall be defined in accordance~~
31 ~~with the following criteria:~~

32 ~~(A) The bond equivalent rate of 13-week United States Treasury~~
33 ~~bills established at the first auction held during the month of~~
34 ~~January shall apply for the following July 1 to December 31,~~
35 ~~inclusive.~~

36 ~~(B) The bond equivalent rate of 13-week United States Treasury~~
37 ~~bills established at the first auction held during the month of July~~
38 ~~shall apply for the following January 1 to June 30, inclusive.~~

39 ~~(d) A holder who pays to the owner property that has escheated~~
40 ~~and been remitted to the state and that, if claimed from the~~

1 ~~Controller, would be subject to subdivision (c) shall add interest~~
2 ~~as provided in subdivision (c). If interest is added, that interest~~
3 ~~shall be repaid to the holder by the Controller in the same manner~~
4 ~~as the principal.~~

5 ~~(e) For the purposes of this section, “owner” means the person~~
6 ~~who had legal right to the property prior to its escheat, his or her~~
7 ~~heirs, his or her legal representative, or a public administrator~~
8 ~~acting pursuant to the authority granted in Sections 7660 and 7661~~
9 ~~of the Probate Code.~~

10 ~~(f) Following a public hearing, the Controller shall adopt~~
11 ~~guidelines and forms that shall provide specific instructions to~~
12 ~~assist owners in filing claims pursuant to this article.~~

13 ~~SEC. 8.~~

14 *SEC. 6.* Section 1560 of the Code of Civil Procedure is
15 amended to read:

16 1560. (a) Upon the payment or delivery of escheated property
17 to the Controller, the state shall assume custody and shall be
18 responsible for the safekeeping of the property. Any person who
19 pays or delivers escheated property to the Controller under this
20 chapter and who, prior to escheat, if the person’s records contain
21 an address for the apparent owner, has made reasonable efforts to
22 notify the owner by mail or, when the owner has consented to
23 electronic notifications, electronically, as required by Sections
24 1513.5, 1514, 1516, and 1520, that the customer’s property,
25 deposit, account, shares, or other interest will escheat to the state,
26 is relieved of all liability to the extent of the value of the property
27 so paid or delivered for any claim which then exists or which
28 thereafter may arise or be made in respect to the property. Property
29 removed from a safe deposit box or other safekeeping repository
30 shall be received by the Controller subject to any valid lien of the
31 holder for rent and other charges, such rent and other charges to
32 be paid out of the proceeds remaining after the Controller has
33 deducted therefrom his selling cost.

34 (b) Any holder who has paid moneys to the State Controller
35 pursuant to this chapter may make payment to any person appearing
36 to such holder to be entitled thereto, and upon filing proof of such
37 payment and proof that the payee was entitled thereto, the
38 Controller shall forthwith reimburse the holder for the payment
39 without deduction of any fee or other charges. Where
40 reimbursement is sought for a payment made on a negotiable

1 instrument (including a ~~travelers~~ *traveler's* check or money order),
2 the holder shall be reimbursed under this subdivision upon filing
3 proof that the instrument was duly presented to him and that
4 payment was made thereon to a person who appeared to the holder
5 to be entitled to payment.

6 (c) The holder shall be reimbursed under this section even if he
7 made the payment to a person whose claim against him was barred
8 because of the expiration of any such period of time as those
9 described in Section 1570.

10 (d) Any holder who has delivered personal property, including
11 a certificate of any interest in a business association, to the
12 Controller pursuant to this chapter may reclaim such personal
13 property if still in the possession of the Controller without payment
14 of any fee or other charges upon filing proof that the owner thereof
15 has claimed such personal property from such holder. The
16 Controller may, in his *or her* discretion, accept an affidavit of the
17 holder stating the facts that entitle the holder to reimbursement
18 under this subdivision as sufficient proof for the purposes of this
19 subdivision.

20 ~~SEC. 9.~~

21 *SEC. 7.* Section 1565 of the Code of Civil Procedure is
22 amended to read:

23 1565. Any property delivered to the Controller pursuant to this
24 chapter that has no apparent commercial value shall be retained
25 by the Controller for a period of not less than seven years from
26 the date the property is delivered to the Controller. If the Controller
27 determines that any property delivered to him or her pursuant to
28 this chapter has no apparent commercial value, he or she may at
29 any time thereafter destroy or otherwise dispose of the property,
30 and in that event no action or proceeding shall be brought or
31 maintained against the state or any officer thereof, or against the
32 holder for, or on account of any action taken by, the Controller
33 pursuant to this chapter with respect to the property.

34 ~~SEC. 10.~~

35 *SEC. 8.* Section 1577 of the Code of Civil Procedure is
36 amended to read:

37 1577. In addition to any damages, penalties, or fines for which
38 a person may be liable under other provisions of law, any person
39 who fails to file a report in the time and manner required by Section
40 1530, or who otherwise fails to report, pay, or deliver unclaimed

1 property within the time prescribed by this chapter, unless that
2 failure is due to reasonable cause, shall pay to the Controller
3 interest at the rate of 12 percent per annum on that property or
4 value thereof from the date the property should have been reported,
5 paid, or delivered.

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